

I know everyone on this committee, and I think everyone on the full committee, appreciates your statement.

I am not going to take time now, because we have a lot of people who have come a long way to be heard.

Thank you, Mr. Chairman.

The CHAIRMAN. Without objection, the statement of the Honorable Glenn Cunningham, one of the sponsors of the bill, will be made a part of the record at this place.

(The prepared statement of Glenn Cunningham, referred to, follows:)

STATEMENT OF THE HONORABLE GLENN CUNNINGHAM, A MEMBER OF CONGRESS
FROM THE STATE OF NEBRASKA

Mr. Chairman, on February 6, 1968, I introduced in the House of Representatives a bill to clarify the rights of our individual Indian citizens in their relations with the tribes. My bill, H.R. 15122, on which you are holding hearings today directs the Secretary of the Interior to recommend to the Congress a model code governing the administration of justice by courts of Indian offenses on Indian reservations, to protect the constitutional rights of certain individuals and for other purposes.

This bill is identical to the legislation sponsored by Senator Ervin, the Chairman of the Constitutional Rights Subcommittee of the Senate Judiciary Committee. Senator Ervin's bill, S. 1843, passed the Senate without objection on December 7th.

I was pleased when President Johnson included a recommendation of legislation guaranteeing constitutional rights for American Indians in his message of March 6th. I quote from the President's message:

"A new Indian Rights bill is pending in the Congress. It would protect the individual rights of Indians in such matters as freedom of speech and religion, unreasonable search and seizure, a speedy and fair trial, and the right to habeas corpus. The Senate passed an Indian Bill of Rights last year. I urge the Congress to complete action on that Bill of Rights in the current session."

Mr. Chairman, because of my long interest in the plight of our American Indians, members of the Omaha Indian tribe with a reservation in Macy, Nebraska, frequently visit my district office in Omaha. I held a meeting with members of that tribe in January of this year.

In my subsequent review of their problems and in discussions with members of the Senate Subcommittee on Constitutional Rights, I was shocked to learn that these first Americans do not have the protection of even the most basic of our constitutional rights. In their relationships with the tribal government, reservation Indians are not guaranteed freedom of speech, freedom of religion or any of the other basic freedoms guaranteed by our Bill of Rights. I believe my bill, H.R. 15122, before this Committee today will go a long way toward solving some of the problems facing the Indian.

TITLE I

Title I of the bill would grant to the American Indians enumerated constitutional rights and protection from arbitrary action in their relationship with tribal governments, State governments, and the Federal Government. Investigations have shown that tribal members' basic constitutional rights have been denied at every level.

The Federal courts generally have refused to impose constitutional standards on Indian tribal governments, on the theory that such standards apply only to State or Federal governmental action, and that Indian tribes are not States within the meaning of the 14th amendment.

Under this rationale, for example, tribes have been permitted to impose a tax without complying with the due process requirements, tribal membership rights can be revoked at the will of tribal governing officials, and Indians have been deprived of the right to be represented by counsel.

Under the provisions of Title I, tribal governments are prohibited from:

(1) Making or enforcing any law prohibiting the free exercise of religion, or abridging the freedom of speech, press, or assembly, or the right of the people